

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JAMIE¹ MARTINEZ-BENITEZ,

Petitioner,

v.

CIVIL ACTION NO. 1:18-01176

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Cheryl A. Eifert for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Eifert submitted to the court her Findings and Recommendation on September 27, 2019, in which she recommended that the court dismiss petitioner's motion for writ of habeas corpus under 28 U.S.C. § 2241 and remove this case from the court's active docket.

In accordance with the provisions of 28 U.S.C. § 636(b), petitioner was allotted fourteen days and three mailing days in which to file any objections to Magistrate Judge Eifert's Findings and Recommendation. The failure of any party to file

¹ According to petitioner's birth certificate and immigration and social security documents, the correct spelling of petitioner's name is Jaime, the Spanish equivalent of James or Jamie.

such objections within the time allowed constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Neither party filed any objections to the Magistrate Judge's Findings and Recommendation within the requisite time period. Accordingly, the court adopts the Findings and Recommendation of Magistrate Judge Eifert as follows:


1. Petitioner's petition for writ of habeas corpus under 28 U.S.C. § 2241 is **DISMISSED**; and
2. The Clerk is directed to remove this case from the court's active docket.

Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of record and unrepresented parties.

IT IS SO ORDERED this 18th day of October, 2019.

ENTER:



David A. Faber
Senior United States District Judge